

NATIONAL RECOVERY ADMINISTRATION

**AMENDMENT TO
CODE OF FAIR COMPETITION**

FOR THE

**MILK FILTERING MATERIALS
AND THE DAIRY PRODUCTS COTTON
WRAPPINGS INDUSTRY**

AS APPROVED ON APRIL 6, 1935



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AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

MILK FILTERING MATERIALS AND THE DAIRY
PRODUCTS COTTON WRAPPINGS INDUSTRY

As Approved on April 6, 1935

ORDER

APPROVING AMENDMENT OF CODE OF FAIR COMPETITION FOR THE MILK
FILTERING MATERIALS AND THE DAIRY PRODUCTS COTTON WRAPPINGS
INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of an amendment to a Code of Fair Competition for the Milk Filtering Materials and the Dairy Products Cotton Wrappings Industry, and hearings having been duly held thereon and the annexed report on said amendment containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive orders of the President, including Executive Order 6859, dated September 27, 1934, and otherwise, does hereby incorporate, by reference, said annexed report and does find that said amendment and the Code as constituted after being amended complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and does hereby order that said amendment be and it is hereby approved, and that the previous approval of said Code is hereby amended to include an approval of said Code in its entirety as amended.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By W. A. HARRIMAN, *Administrative Officer.*

Approval recommended:

M. D. VINCENT,
Acting Division Administrator.

WASHINGTON, D. C.,
April 6, 1935.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Hearing on the Amendment to the Code of Fair Competition for the Milk Filtering Materials and the Dairy Products Cotton Wrappings Industry, held in Room 2062 of the Department of Commerce Building, on January 7, 1935. The Amendment which is attached was presented by the Code Authority.

In accordance with the customary procedure every person who had filed a request for an appearance was freely heard in public, and all statutory and regulatory requirements were complied with.

The following Amendment is submitted for approval:

Article VIII of the Code as now written relating to price filing has been replaced by "open price filing", "costs and price cutting", and "emergency provision", as set forth in Office Manual, Part II, Section 3031.15211 to .152222, inclusive, and adding thereto the provisions for classifications of customers as set forth in Office Memorandum 267, dated July 20, 1934.

FINDINGS

The Deputy Administrator in his final report to the National Industrial Recovery Board on said Amendment to said Code having found as herein set forth and on the basis of all proceedings in this matter:

The National Industrial Recovery Board finds that:

(a) The amendment to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required) by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof.

(c) The Code empowers the Code Authority to present the aforesaid Amendment on behalf of the Industry as a whole.

(d) The Amendment and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The Amendment and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps in the economic process have not been deprived of the right to be heard prior to approval of said Amendment.

For the above reasons this Amendment has been approved.

For the National Industrial Recovery Board:

W. A. HARRIMAN,
Administrative Officer.

APRIL 6, 1935.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE MILK FILTERING MATERIALS AND THE DAIRY PRODUCTS COTTON WRAPPINGS INDUSTRY

Article VIII is to be amended to read as follows:

1. (a) Each member of the industry shall file with a confidential and disinterested agent of the code authority or, if none, then with such an agent designated by the National Industrial Recovery Board, identified lists of all of his prices, discounts, rebates, allowances, and all other terms or conditions of sale, hereinafter in this article referred to as "price terms", which lists shall completely and accurately conform to and represent the individual pricing practices of said member. Such lists shall contain the price terms for all such standard products of the industry as are sold or offered for sale by said member and for such non-standard products of said member as shall be designated by the Code Authority. Said price terms shall in the first instance be filed within 30 days after the date of approval of this provision. Price terms and revised price terms shall become effective immediately upon receipt thereof by said agent. Immediately upon receipt thereof, said agent shall by telegraph or other equally prompt means notify said member of the time of such receipt. Such lists and revisions, together with the effective time thereof, shall upon receipt be immediately and simultaneously distributed to all members of the industry and to all of their customers who have applied therefor and have offered to defray the cost actually incurred by the Code Authority in the preparation and distribution thereof and be available for inspection by any of their customers at the office of such agent. Said lists or revisions or any part thereof shall not be made available to any person until released to all members of the industry and their customers, as aforesaid; provided, that prices filed in the first instance shall not be released until the expiration of the aforesaid 30 day period after the approval of this Code. The Code Authority shall maintain a permanent file of all price terms filed as herein provided, and shall not destroy any part of such records except upon written consent of the National Industrial Recovery Board. Upon request the Code Authority shall furnish to the National Industrial Recovery Board or any duly designated agent of the National Industrial Recovery Board copies of any such lists or revisions of price terms.

(b) When any member of the industry has filed any revision, such member shall not file a higher price within forty-eight (48) hours.

(c) No member of the industry shall sell or offer to sell any product, services of the industry, for which price terms have been filed pursuant to the provisions of this article, except in accordance with such price terms.

(d) No member of the industry shall enter into any agreement, understanding, combination or conspiracy to fix or maintain price

terms, nor cause or attempt to cause any member of the industry to change his price terms by the use of intimidation, coercion, or any other influence inconsistent with the maintenance of the free and open market which it is the purpose of this Article to create.

2. The standards of fair competition for the industry with reference to pricing practices are declared to be as follows:

(a) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the industry or of any other industry or the customers of either may at any time complain to the Code Authority that any filed price constitutes unfair competition as destructive price cutting, imperiling small enterprise or tending toward monopoly or the impairment of code wages and working conditions. The Code Authority shall within 5 days afford an opportunity to the member filing the price to answer such complaint and shall within 14 days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of N. R. A. which shall render a report and recommendation thereon to the National Industrial Recovery Board.

(b) When no declared emergency exists as to any given product, there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

(c) When an emergency exists as to any given product, sale below the stated minimum price of such product, in violation of Section 3 hereof, is forbidden.

3. (a) If the National Industrial Recovery Board, after investigation shall at any time find both (1) that an emergency has arisen within the industry adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the industry for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Code Authority may cause an impartial agency to investigate costs and to recommend to the National Industrial Recovery Board a determination of the stated minimum price of the product affected by the emergency and thereupon the National Industrial Recovery Board may proceed to determine such stated minimum price.

(b) When the National Industrial Recovery Board shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, it shall publish such price. Thereafter, during such stated period, no member of the industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Code Authority may recommend review or reconsideration or the National Industrial Recovery Board may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

4. (a) The Code Authority shall cause to be formulated and keep current a classification of all types of customers of the industry.

Such classification shall be subject to the disapproval of the National Industrial Recovery Board and shall contain: (A) A complete list of all of the classes of customers of the industry, including a class to cover every known type of customer, and (B) definitions or descriptions of the several classes in terms of functions performed, or in other appropriate terms such as purchasers of defined quantities.

(b) After submission to the National Industrial Recovery Board, if there is no disapproval or request for suspension of action within twenty (20) days, full information concerning the classification shall be made available to all members of the industry. No one shall by intimidation, coercion, or other undue influence cause or attempt to cause the inclusion of any customer in or the exclusion of any customer from any class of customers, or the exclusion of any class of customers from the classification, or the use of uniform or stipulated prices, discount, or differentials and each member of the industry may at all times classify his own customers in accordance with his own judgment.

Approved Code No. 396—Amendment No. 2.
Registry No. 223-02.

